THE ANCIENT GREEK LEGAL-PHILOSOPHICAL DOCTRINE: HISTORY AND MODERNITY

Garnik Safaryan, Doctor of Law, Professor,
Chief Researcher at the Institute of Philosophy,
Sociology and Law of NAS RA
ORCID iD: 0009-0001-2991-8566
(email: safaryangarnik51@mail.ru)

Arthur Ikilikyan, PhD in Law
Rector of the Erebuni Medical Academy Foundation
(email: aikl@mail.ru)

Manuscript has been submitted on 05.03.2025, sent for review on 24.06.2025, accepted for publication on 10.07.2025.

Abstract

This research aims to reveal the essence and peculiarities of the ancient Greek legal-philosophical doctrine. Therefore, in this scientific article, the authors systematically analyze the legal-philosophical approaches of the main representatives of ancient Greek legal-philosophical thought – Solon, Heraclitus, Democritus, the Sophists, Socrates, Plato, Aristotle – and present their historical and modern significance in the further development of human theoretical thought.

The methodological bases of the research include both general (analysis, synthesis, deduction, induction) and special (comparative-legal) methods of scientific research. As a result, the impact of the Greek legal-philosophical thought on the formation of the developed Roman legal culture and the legal conceptual approaches of both the Middle Ages and the Modern and Contemporary periods, including: the supremacy of law, governance according to law, equality before the law and the court, the concept of legal state, as well as the formation of ideas about freedom and autonomy is presented in the article.

***Keywords*:** Athens, Greece, *polis*, philosopher, democracy, right, law, natural law, positive law.

Introduction

The Greek *polis* and its equivalent Latin “civitas” are often referred to in literature as “city-state”, which, in our opinion, does not sufficiently represent the meaning and content of that term (Lübker, 2018, p. 816).

In our opinion, the Greek "polis" has a different meaning and content. The polis was not a special state unit of governance. It was a form of organization of the life of ancient society, which represented a self-governing community of free and equal citizens. Such organizational communities of *polis* self-government were finally formed in the 4th century BCE, following the reforms of Solon and Cleisthenes, and served as an environment for the formation and development of Greek philosophical thought.

The *polis* was fundamentally different from the city-state of the East. The latter was characterized by absolute-unlimited power and a patrimonial approach: the monarch was the father, and the subjects were the children. Contrarily, the polis consisted not of subjects but of free and equal citizens. According to Aristotle, citizens were those who participated in the governance of the *polis* and in the adoption of laws, that is, citizens were endowed with political rights, which were excluded from the absolute monarchies of the Ancient East, as well as from totalitarian and authoritarian political systems (Aristotle, 1911, pp. 407-408).

Thus, it can be concluded that power in the *polis* belonged not to a person endowed with absolute power, but to a Citizens' Assembly, where decisions and laws were adopted based on the results of discussions. In this regard, the Citizens' Assembly of the Athenian *polis* can be considered as prototypes of the modern parliaments.

The general decision of the Citizens' Assembly (*Ecclesia*), in the form of a law was called "nomos", which in turn had to correspond to justice (*dike*). There was no necessary contradiction between law and justice. Moreover, they had to correspond to each other and act as a single entity. On the basis of this approach, Greek philosophical and legal thought, as well as political culture, were formed.

The main representatives of philosophical thought are Thales, Anaximander, Xenophanes, Pythagoras, Heraclitus, Empedocles, Anaxagoras, the Sophists, Socrates, and others. The first philosophical teachings were developed in the 7th-6th centuries BCE and by supplementing, editing each other, continued until Antiquity (3rd-4th centuries BCE).

In their worldview reflections, Greek philosophers sought the beginning and causes of the emergence, change, and development of all things.

They perceived primary matter not as dead and petrified matter, but as a living part of the whole, endowed with spirit and movement. By means of philosophical, natural, and social theoretical questions, they tried to find practical solutions to make *polis* life more favorable. The philosophers' legal and political concepts were especially aimed at this (Nersesyants, 1979, p. 19; Cassirer, 1941).

The Doctrine of Law and Justice

One of the most important principles of the ancient Greek legal thought was the distinction between law (*nomos*) and justice (*dike*), but not their opposition.

Homer (8th century BCE) distinguished between the concepts of justice (*dike*) and law (*nomos*), which is extremely important for understanding and making sense of the further evolutionary development of law and legal concepts. Justice was perceived as the basis and starting point of law. In its essence, a just law was the method of regulating legal relations. This conceptual approach formed the basis for the formation and development of later concepts, teachings on natural and positive law.

Solon (c. 630-560 BCE), who was one of the Seven Greek Sages, characterized law as a combination of right and power, and from this conceptual approach, advocated the establishment of a just and legal order in the *polis*. It is noteworthy that the formation of democratic order in Athens is associated with Solon's reforms, at least through the establishment of two important principles: equality before the law (*isonomia*) and the creation of the people's court (*heliaia*), which is evidence that the judicial power ultimately went to the people (Anners, 1994, p. 44).

The conducted research shows that justice in Athens was characterized as the embodiment of fairness and legality. The ancient Greek legal concept also distinguished between written (positive) and unwritten (natural, customary) law. Written (positive) law, which was adopted by a Citizens' Assembly (*Ecclesia*), as a result of free discussions and debates, had to correspond to natural, universal law or at least not contradict it. Therefore, human life must correspond to the harmony existing in the universe, to "natural law" (cosmic, divine law). In this case, the ideas of positive law were based on the philosophical hypothesis that the organization of the *polis* life of society and written laws should have a divine origin and be based on justice (*dike*). Thus, according to the ancient Greek legal concept, the theoretical interpretation of the laws of the *polis* and their justification proceeded in the direction of "revealing the objective foundations of natural law" of the *polis* and its positive law (Mirumyan, 2006, p. 22).

Justice (cosmic, divine) was perceived as the objective foundation of positive law and, at the same time, a rational-legal criterion. Therefore, law, in its essence and content, was considered to be the positive, written law that corresponded to the principle of justice. This is exactly how Heraclitus (c. 540-480 BCE) interpreted the laws of the *polis* as a reflection of the cosmic order (Mirumyan, 2006, p. 23).

According to M. A. Dynnik (1955), for Heraclitus, knowledge about justice and law form an integral part of knowledge about the structure of the world

and the universe as a whole (pp. 39-40). Moreover, the great philosopher revealed that the Eternal Logos is the basis of all world events, and that justice lies in following the universal divine logos. In addition, Heraclitus pointed out, that the *polis* and its laws are divine and rational phenomena that are common in their origins and uniform in meaning. M.A. Dynnik indicated that, for Heraclitus, all human laws are nourished by a single divine being, which extends its power as far as it wishes, rules over the whole, and gains dominion over all. Thus, according to Heraclitus, justice (cosmic law, cosmic logos) is not only the source of positive legitimacy but also the supreme judge in the sphere of justice (Dynnik, 1955, pp. 50-51).

The famous researcher of antiquity, Ernest Cassirer (1941) noted that "dike" means "order of law", while for Heraclitus, "dike" means "order of nature". Since both law and nature are subject to the same general law: through *logos* and *dike*, existence establishes something universal, which stands above every peculiarity of individual images and illusions (Cassirer, 1941, pp. 19-20). In this way, law acts as a commandment of reason, and *logos* and *dike* are subject to recognition as "universal and divine". Considering the further evolution of legal thought, it can be stated that all the natural legal doctrines of the ancient world and the Modern Age originate from the Heraclitian concept.

The approaches to law and the state as somewhat artificial, secondary phenomena, which are essential for natural-legal theory, were presented in an extensive form by Democritus (c. 460-370 BCE). He valued conformity to nature as a criterion of justice in ethics, politics, and legislation. Democritus argued, that which is considered just is not natural. That which is contrary to nature is unjust. This, in its essence natural-legal, proposition of Democritus is skeptically and critically directed not against justice in general, but against false ideas about morality, against what is considered "just" by "dark" cognition and unenlightened "general opinion" (Luria, 1970, p. 370; Dzema, 2019).

According to S. Y. Luria, Democritus always criticized the adoption of such laws, which correspond to the general opinion and differ from the requirements of natural truth. Moreover, Democritus repeatedly stressed that commandments of the laws are artificial. In the same context of contrasting natural and artificial, he argued that laws were a stupid discovery of the society, therefore, a wise man should not obey laws, but should live freely with them. Obviously, this approach is complicated for the modern perception of laws and justice (Luria, 1970, p. 371).

Democritus emphasizes the importance of the principles of justice and fairness. Thus, it is the duty of every citizen to prevent the commission of an unjust act (action or inaction). However, if we are unable to do so, then, in

extreme cases, we should not contribute to an unjust act. According to Democritus, one of the primary tasks of the state is to take a reasonable balance among the interests of various social classes and groups in society and, ultimately, to reconcile them (social compromise).

Democritus promotes the conceptual approach of the "golden mean", which is essentially an expression of the ancient Greek principle of "proper size". Like Socrates, he argues that wrong and bad human behavior is the result of a lack of knowledge. Intellectual knowledge is clear only to a philosopher who recognizes the weaknesses of democracy and makes recommendations for its improvement (Mirumyan, 2006, p. 37).

It is noteworthy that Democritus considered an intelligent person to be a citizen of the world who did not participate in the socio-political life of the country. Moreover, if society consisted of wise men, there would be no objective need for any law or regulation.

Considering the distinction between natural and artificial, a number of Sophists (5^{th}-4^{th} centuries BCE) already clearly contrasted natural law with the artificial (positive) law of the *polis*. Thus, the sophist Gorgias, highly appreciating the achievements of human culture, also counted among them the written laws, the guardians of justice. Gorgias characterized written law as "the essence of things" and "divine and universal law" (Mirumyan, 2006, p. 38).

Plato indicated that famous sophist Hippias, contrasting law (*nomos*) with nature (*physis*) declared: "All of you who are here present I reckon to be kinsmen and friends and fellow citizens by nature and not by convention, for by nature like is akin to like, whereas convention is the tyrant of mankind and often compels us to do many things which are against nature" (Plato, 1956, p. 39).

At the same time, Hippias critically noted the variability, current and temporary nature of *polis* laws, and their dependence on the discretion of successive legislators. In his opinion, all this shows that the laws adopted by people are not serious and are devoid of necessity. In Plato's well-known work "Protagoras", Hippias underlined: "Who will begin to think of laws and obedience to them as a serious matter, when often the legislators themselves do not encourage and change them. Unlike polis laws, the unwritten laws of nature are uniformly implemented in every country" (Plato, 1956, p. 41).

The sophist Antiphon substantiated the proposition that all people are equal by nature. Moreover, he relied on the fact that all people – Hellenes and barbarians, nobles and commoners – have the same natural needs. In its turn, the inequality of men arises from human laws, not from nature (Nersesyants, 1998, pp. 84-85).

From this standpoint, he noted that many things justified by law are hostile to human nature. Even the useful definitions of law are essentially a bondage for human nature, while the commandments of nature bring freedom to man. He justified this as follows: "Since the commandments of laws are arbitrary (artificial), then the commandments of nature are necessary. Besides, the commandments of laws are the result of agreement, of a contract between people, while the commands of nature are determined from above, by nature" (Nersesyants, 1998, p. 86).

The aristocratic concept of natural law was developed by the sophist Callicles. Criticizing the laws of the *polis*, he indicated, that the laws are established by the people themselves, the majority of them. For their own sake and their own benefit, they make laws, lavishing both praise and blame. Sophist Lycophron interpreted the state and laws as the result of a contract concluded between people, which are a direct guarantee of personal natural rights (Aristotle, 1911, p. 408).

The idea of the natural-legal equality and freedom of all people (including slaves) was substantiated by the sophist Alcidamas (Alkidamas), to whom the famous statement belongs: "God has left everyone free. Nature made no one a slave" (Aggelos, 2020). The beginning of conceptual theoretical research (with the help of logical definitions and general concepts) into the objective rational nature of official *polis* commands, justice, and legality is associated with Socrates (c. 470-399 BCE) and his followers. His theoretical approach to moral, political, and legal issues is generally based on the idea of the decisive, imperative, regulatory significance of knowledge (Nersesyants, 1979, p. 125).

The development of democracy in the Athenian Republic, including the creation of new elected bodies of power such as Citizens' Assembly (*Ecclesia*), and the people's court, led to challenges and problems. In this regard, it should be noted that the effectiveness of participation in the socio-political and judicial affairs of the *polis* was also largely determined by the citizen's ability to generate political and legal arguments and to persuade through rhetoric. Moreover, these problems were tried to be solved by the sophists, who taught citizens the art of rhetoric, the ability to debate and persuade.

In other words, the sophists taught not only certain political and legal skills and elementary knowledge, but also skillfully connected them with philosophical issues. In essence, the sophists are considered the founders of the concept of natural law, who clearly presented the general conceptual approach to the natural equality and freedom of people.

Like the sophists, Socrates also distinguished between natural (divine) law and positive law (the laws of the *polis*). However, unlike the Sophists, he does not oppose them, but considers that both types of law are aimed at the same

goal – the establishment of justice, which is identical to legality. According to Socrates, both unwritten divine laws and written human laws refer to the same justice, which is not only a standard of legality, but is essentially identical with it. In Plato's well-known work "Protagoras", the sophist Hippias persistently asks Socrates about his doctrine of justice, and Socrates replies: "I think that not wanting injustice is a sufficient proof of justice. I maintain that what is lawful is also just" (Plato, 1956, p. 39).

Researchers rightly believe that, in the history of philosophical thought, Socrates was the first to formulate a conceptual approach to contractual relations between the state and its citizens, with a characteristic paternalistic connotation (Anners, 1994).

Socrates' rationalist views on justice, rights, and law were developed by his student, the ancient Greek philosopher Plato (born c. 428-423 BCE, died 348/347 BCE), who in turn was the teacher of Aristotle. Plato interpreted the ideal state and rational, just laws as the fullest possible realization of the world of ideas within earthly, political, and legal life. Justice consists in each principle (each class and each member of the state) going about its own business and not interfering in the affairs of others. According to Plato, justice requires a corresponding hierarchical subordination of this principle for the sake of the whole. Thus, describing justice in the ideal state, Plato wrote: "It seems that justice is for each to mind his own business. Justice consists in ensuring that each has his own. Justice also consists in ensuring that no one seizes another's and is not deprived of what he has. Consequently, the ability of every citizen to do his job in the state competes with wisdom, prudence and courage" (Plato, 2017, p. 156).

Plato's definitions of justice (*dikaiosyne*) also refer to law (*dikaion*), thereby revealing his understanding of natural law as distinct from the law of the *polis*. However, like Socrates, Plato interprets this distinction between natural law and law not from the perspective of their opposition and rupture, but with the aim of revealing the objective (ultimately divine, rational, ideal) roots of the laws of the *polis*.

The famous German researcher of natural-legal concepts, H. Reiner (1976), characterizing the principle of "to each his own" as a basic tenet of natural law, emphasizes its connection with the Platonic definition of law, according to which laws is "to each his own" (pp. 2-3).

For Plato, justice always implies a "proper measure," a certain equality. Moreover, Plato, with reference to Socrates, distinguishes between two types of equality: "geometrical equality" (equality according to merit and virtue) and "arithmetical equality" (equality of measure, weight, and number). Clarifying the meaning of such a distinction, Plato observes that equality for the unequal would be unjust if proper measures were not followed. "Geometrical equality"

is “the most accurate and best equality”, which gives great things to the great and small things to the small, giving everyone something that is proportional to his nature” (Nersesyants, 1998, p. 85; Stephanides, 2022).

These principles were later understood and developed in Aristotle’s teaching on two types of justice: egalitarian justice and distributive justice.

Aristotle (384-322 BCE), in his “Ethics”, as well as in his teachings on politics and law, interprets justice as a certain equality and distinguishes between distributive justice and equalitarian justice. These concepts express the content of Aristotle’s natural-legal views. The empirical (experimental) method of reasoning allowed Aristotle to significantly expand the scope of the concept of “politics”. He also considers politics not only as a doctrine of the perfect state, but also as a theory of the state and law, as a practical reflection of legal concepts and legal thought.

Interpreting law as political justice, Aristotle writes: “We should not lose sight of the fact that the concept we are seeking lies both in general justice and in political justice (in laws)” (Aristotle, 1911, p. 51). In his opinion, political justice, or laws arises, in relations between people belonging to the same community, and has the goal of their self-fulfillment, moreover, between free and equal people, who are free either in proportion or in general in the sense of number. People who are not in such relations cannot have political justice (rights) towards each other, but they have a certain kind of justice, which is so called because of its similarity to the common kind. Such people have rights, and there are laws regulating their relations (Aristotle, 1911, p. 53).

According to Aristotle, political law is partly natural and partly conditional. Natural law is that which has a uniform meaning everywhere and does not depend on its recognition or non-recognition. Conditional law is that which could have been originally this or that without any essential difference, but if it has already been determined (this difference has been eliminated), then this is the difference: whether to buy a captive for one mina, to sacrifice one goat, and not two sheep. This also applies to the provisions of the law given for individual unique cases, for example, the provisions regarding the sacrifice of Brazida, which acquired legal force through a vote (Aristotle, 1911, p. 54).

The law can be just or unjust, and the criterion for its evaluation is the concept of justice. Therefore, only that law which is based on right is just. Any law, in essence, presupposes law. Without it, law turns into a means of tyranny. The pursuit of violent subjugation, of course, contradicts the idea of law (Aristotle, 1911, p. 55).

In general, the political and legal science developed by Aristotle was based on a natural-legal interpretation of all the key issues of *polis* life (the laws and institutions of the *polis*, the freedom of its members, justice in their relations with each other, etc.). Aristotle’s famous statement: “man is by nature a

political animal" (Abbate, 2016) also has a natural-legal meaning. Aristotle considered the state as a structure that ensures the well-being of people.

In the context of Aristotle's legal doctrine of politics (*polis*, state, laws), this provision also essentially means that man is by nature a legal being, "since law, which serves as a standard of justice, is a regulatory norm of political relations" (Aristotle, 1911, p. 55). Both Plato and Aristotle had a significant influence on the development of Western legal philosophy (for example, on the formation and development of the legal doctrines of Thomas Aquinas, Hugo Grotius, and others).

In Aristotle's teaching, the politicization and legalization (legal nature) of the state are the same thing, so his political science, which is a natural-legal doctrine of the state and law (positive law), contains the basic ideas of legal law and legal statehood.

These ideas were perceived and later developed in the new context of Roman legal thought and legal science.

Conclusion

The legal and philosophical thought of ancient Greece had a profound influence not only on the formation and development of contemporary Roman law and legal thought, but also on the legal concepts and their ideological justifications of subsequent centuries (the Middle Ages, Modern and Contemporary periods). In particular, it contributed to the development and consolidation of ideas such as the community as a union of free and equal citizens (as exemplified by the European Union), the rule of law, governance in accordance with law, the separation of powers, equality before the law and the courts, the electoral principle in public institutions, the independence of the judiciary, and the principles of human freedom and autonomy.

References

Abbate, C. E. (2016). *"Higher" and "Lower" Political Animals: A Critical Analysis of Aristotle's Account of the Political Animal.* Journal of Animal Ethics, Vol. 6, Iss. 1. 54-66.

Aggelos, I. (2020). *Alkidamas of Elaia about Freedom*. NovoScriptorium. Retrieved January 20, 2025, from: https://surl.li/mxgbnh.

Anners, E. (1994). *Istoriya Yevropeyskogo Prava* (History of European Law). Moscow: "Nauka" Publishing House.

Aristotle. (1911). *Politika* (Politics). Moscow: M. & S. Sabashnikov's Publishing House.

Cassirer, E. (1941). *Logost, Dike, Kosmos in der Entwiklung* (Logost, Dike, Kosmos in Development). Gothenburg: Elanders Print & Packaging.

Dynnik, M. A. (1955). *Materialisty Drevney Gretsii* (Materialists of Ancient Greece). Moscow: "Gospolitizdat" Publishing House.

Dzema, A. I. (2019). *Mnozhestvennost Mirov i Zakony Logiki v Filosofii Demokrita* (The Plurality of Worlds and the Laws of Logic in the Philosophy of Democritus). Kant, Vol. 33, Iss. 4. 151-154.

Lübker, F. (2018). *Fridrikh Ljubkers Realleksikon des Klasishen Altertum fjur Gjumnazium* (Friedrich Lübker's Archaeological Manual Dictionary for Gymnasiums). London: Forgotten Books Publisher.

Luria, S. Y. (1970). *Demokrit* (Democritus). Leningrad: "Nauka" Publishing House.

Mirumyan, K. (2006). *Kaghakakan Usmunkneri Patmutyun* (History of Political Teachings). Yerevan: "Zangak-97" Publishing House.

Nersesyants, V. S. (1979). *Politicheskiye Ucheniya Drevney Gretsii* (Political Doctrines of Ancient Greece). Moscow: "Nauka" Publishing House.

Nersesyants, V. S. (1998). *Yurisprudentsiya. Vvedeniye v Kurs Obshchey Teorii Prava i Gosudarstva* (Jurisprudence. Introduction to the c Course of General Theory of Law and State). Moscow: "Norma" Publishing House.

Plato. (1956). *Protagoras* (B. Jowett, Trans.). Indianapolis: The Bobbs-Merrill Company.

Plato. (2017). *Yerker Chors Hatorov* (Collected Works in Four Volumes). S. Stepanyan (Ed.), Vol. 4. Yerevan: Antares Publishing House.

Reiner, H. (1976). *Di Hauptgrundlagen der Fundamentalisten Nomen des Naturrekhts* (The Main Foundations of the Fundamental Norms of Natural Law). Basel.

Stephanides, S. (2022). *Plato on the Mechanics of Koinōnia Formation*. Areté, Vol. 34, Special issue. 149-177. DOI: 10.18800/arete.2022ext.009.